

**SUPREME COURT MINUTES
FRIDAY, JANUARY 7, 2000
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California reconvened in the courtroom of the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on January 7, 2000, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Mosk, Kennard, Baxter, Werdegard, Chin, and Brown.

Officers present: Brian Clearwater, Calendar Coordinator; and Harry Kinney, Bailiff.

***REMARKS FOR CELEBRATION SESSION HONORING
THE RECORD SERVICE OF JUSTICE STANLEY MOSK,
ASSOCIATE JUSTICE, CALIFORNIA SUPREME COURT
(1964 - PRESENT)***

CHIEF JUSTICE RONALD M. GEORGE: Good morning. This being an historic occasion, it is appropriate that the court has been called to order by our historic bailiff, Elliott Williams, who has come out of retirement to be here today. Thank you, Elliott.

It is with great pleasure that I welcome you to this unique session celebrating the record service of Associate Justice Stanley Mosk on the Supreme Court of California. The court scheduled this proceeding over the relatively mild dissent of Justice Mosk. Appointed on September 1, 1964, he surpassed the previous 35-year, record tenure of Justice John Shenk on December 26, 1999. I should note that in honor of Justice Mosk's accomplishments, Governor Gray Davis denominated December 26th as "Stanley Mosk Day" in California.

Our celebration today is of more than longevity, however. It is a celebration of a career dedicated to public service, and remarkable for the consistently high quality of its contributions.

I first met Stanley Mosk in 1964 when as Attorney General of California he hired me, fresh out of law school, as a deputy attorney general. He was elevated to the Supreme Court a few months later, and I soon found myself in an entirely different position — arguing before him, instead of on his behalf. In either role, he was a challenging inspiration.

A few years later, our relationship changed yet again when I joined the trial bench. Throughout my service on the trial bench and subsequently on the Court of Appeal, I felt a connection with Justice Mosk in two ways that may well be familiar to anyone who has sat on the bench in California. First, in deciding a difficult issue of law, it is always a pleasure to find that Justice Mosk has written an opinion on the question. Second, if a decision that you render makes its way up to the Supreme Court, you always hope that Justice Mosk agreed so that you need not experience his dissection of an analysis that seemed perfectly sound at the time you made it.

When I joined the Supreme Court as an associate justice, I was greatly honored to enter the fourth stage of my relationship with Justice Mosk by joining him as a colleague. In the eight years we have served together on the same bench, I have been fortunate to move to a seat next to his on the bench and in the court's conference room. Thus, it has been readily apparent, whether on the bench questioning advocates, or in postargument or petition conferences debating legal issues, that Justice Mosk remains an active contributor whose experience and wisdom enrich our court's deliberations.

The body of Stanley Mosk's work is notable not only for its quantity, but for its quality. In opinions touching on such diverse topics as jury selection, racial discrimination, products liability, the rights of disabled parents, and arbitration of health care issues, he has brought his powers of analysis to bear and has reached results that time and again have been echoed by the United States Supreme Court and the supreme courts of other states. Justice Mosk has been an eloquent proponent of federalism and of independent state constitutional grounds. His voice has widely been heard and respected not only in California, but across the nation.

The Supreme Court of California celebrates its 150th anniversary in just two months. Remarkably, Stanley Mosk's service spans almost 25 percent of the court's own tenure. On behalf of the Supreme Court — colleagues and staff alike — and of the entire court system of California, congratulations. I, along with the other justices, look forward to many more productive years with you, together serving the people of our great state.

I would now like to introduce Richard Mosk, Justice Mosk's son and a prominent national and international legal practitioner.

MR. RICHARD MOSK: Chief Justice George and Associate Justices, may it please the court:

I have had the privilege of arguing cases before this court, but never without at least one pro tem justice, for obvious reasons. So I am pleased today to address the full court.

Stanley Mosk was born in San Antonio, Texas around the time of the Titanic disaster. The family moved to Rockford, Illinois. There, he was class president of his high school and avidly interested in journalism.

Stanley Mosk graduated the University of Chicago, where he played first base on a baseball team and attended Chicago Law School. The family ran out of money during the Depression years, and therefore they headed West.

In Los Angeles, he completed law school and began the practice of law as a sole practitioner. He described his practice as consisting of a \$25 case and two smaller ones.

He was interested in politics, following the famous campaign of Upton Sinclair for Governor of California, and participating in some local campaigns. During that period, he met and married my now deceased mother, Edna. She played a major role in his career.

Having been deeply involved in the Culbert Olson campaign for Governor in 1938, he was invited into the administration, first as clemency secretary and then as Executive Secretary to the Governor. His patron was his law professor, Phil S. Gibson, who was a director of finance in the Olson administration and later Chief Justice of California.

Governor Olson also appointed him to the University of California Board of Regents. Governor Olson lost his reelection bid to a person considered by those in the Olson administration to be a reactionary—Attorney General Earl Warren. Later, the Warren and Mosk families became quite close. Stanley Mosk used to apologize to the United States Supreme Court Chief Justice for all the votes he had cast against him. When Chief Justice Earl Warren announced his resignation, he recommended three people to President Johnson as his successor. One of them was Stanley Mosk. President Johnson nominated Justice Fortas, who was not confirmed.

In the last days of the Olson administration, Governor Olson told Stanley Mosk that he, Governor Olson, was appointing him to the Los Angeles Municipal Court and immediately to take the necessary papers to the Secretary of State's office. Stanley Mosk, although delighted, failed to heed that instruction. That night the Governor called and asked if he had filed the papers. Stanley Mosk was embarrassed to say he had not. At that point the Governor said he had decided to appoint him to the Los Angeles Superior Court and someone else to the municipal court. So procrastination is how Stanley Mosk became the youngest superior court judge. In his first case as a trial judge, one of his jury instructions led to a reversal. The prevailing lawyer was the great litigator, Joe Ball. (*Eckman v. Arnold Taxi Co.* (1944) 64 Cal.App.2d 229.)

At the next election, he drew opposition—Judge Ida May Adams, known as the "marrying judge" for all of the marriage ceremonies she performed, and Judge Leroy Dawson, a veteran disabled in World War I. Dawson attacked Stanley Mosk by saying that "We should not have a judge in his childhood." Stanley Mosk replied, "Better a judge in his childhood than one in his second childhood." (He looks at it differently now.) He was reelected by the largest margin in history for a contested Superior Court election up to that time.

Although exempt from the draft and rendering service in the Coast Guard, Stanley Mosk implored the Director of Selective Service to overlook his judicial position and deficient eyes because of a desire to serve his country in World War II. He memorized the eye chart and, with the benign neglect of the Director of Selective Service, passed the physical examination and enlisted as a private in the army. He served in the Transportation Corps—an odd assignment for a nearsighted soldier. He rose to private first class. Later, when Attorney General, he was once introduced at an event as follows: "General Mosk, I would like you to meet Omar Bradley." That gave him a thrill. Fortunately, Governor Earl Warren did not fill Judge Mosk's superior court seat, so that he was able to return to it after the war.

As a trial judge he had some memorable cases. As a young superior court judge, Stanley Mosk ruled, at a time before *Shelley v. Kraemer* (1948) 334 U.S. 1, that a covenant restricting the ownership of real property to Caucasians was constitutionally not enforceable. Judge Mosk said in his ruling:

"There is no allegation, and no suggestion, that any of these defendants would not be law-abiding neighbors and citizens of the community. The only objection to them is their color and race.

“We read in columns in the press each day about un-American activities. This court feels there is no more reprehensible un-American activity than to attempt to deprive persons of their own houses on a 'master race' theory.

“Our nation just fought against the Nazi race superiority doctrines. One of these defendants was in that war and is a Purple Heart veteran. This court would indeed be callous to his constitutional rights if it were now to permit him to be ousted from his own home by using 'race' as the measure of his worth as a citizen and a neighbor.” (Los Angeles Sentinel (Oct. 30, 1947) p.1.).

Despite his personal opposition to the death penalty, Judge Mosk imposed a death penalty in a case. His decision to admit a confession in that case was upheld narrowly by the U.S. Supreme Court. (*Crooker v. California* (1958) 357 U.S. 433.) Under *Miranda v. Arizona* (1966) 384 U.S. 436, 479, footnote 48, *Escobedo v. Illinois* (1964) 378 U.S. 478, 491-492, and *Massiah v. United States* (1964) 377 U.S. 201, 206-207, his decision is no longer the law, although recently the United States Supreme Court granted certiorari to again deal with that issue. Later, when Governor Pat Brown was considering whether to commute the defendant's death sentence, he was influenced by a note from Attorney General Mosk, who wrote that he would not object to such a commutation from death to life imprisonment because the condemned man was capable of being rehabilitated "in the distant future" and could "become a constructive member of society." The Governor did commute the death penalty. (See Brown, Public Justice, Private Mercy (1989) p. 13.)

Even though Stanley Mosk considers the death penalty "socially" invalid and "anachronistic," as a judge and prosecutor, he has carried out his legal duties in connection with its enforcement. (*In re Anderson* (1968) 69 Cal.2d 613, 634 (concurring opinion); see *People v. Spencer* (1963) 60 Cal.2d 64, in which Attorney General Stanley Mosk's position to affirm a death penalty judgment was sustained. The trial judge was Honorable LeRoy Dawson.)

In my law school torts class, we studied a California case in which the trial judge's decision was reversed by a two-to-one decision of the Court of Appeal. (Seavey and Keeton, Law of Torts (1957) p. 378.) Upon learning that the trial judge was Stanley Mosk, I confronted him with this seemingly embarrassing fact. He said the reversal of his decision—a rare occurrence, he added—took place because plaintiff's lawyer was willing to risk an instruction on the then untested

doctrine of strict liability. (*Beck v. Bel Air Properties, Inc.* (1955) 134 Cal.App.2d 834.) On the brief for the successful appellant was Otto K. Kaus, later a colleague of Stanley Mosk on the Supreme Court.

While on the superior court, Stanley Mosk sat on the Court of Appeals pro tem from time to time. (See, e.g., *Traders etc. Ins. Co. v. Pac. Emp. Ins. Co.* (1955) 130 Cal.App.2d 158.)

Judge Mosk is still remembered for his charitable activities in the Los Angeles community.

In 1958, Stanley Mosk was elected California Attorney General by the largest margin of any contested election in the country on that election day (over a million votes). He was reelected four years later by a large margin. As Attorney General, he established a constitutional rights section within the Department of Justice; he began enforcing the state's then moribund antitrust law (Bus. & Prof. Code, § 16700 et seq.); he instigated a consumers rights division (see *People ex rel. Mosk v. National Research Co. of Cal.* (1962) 201 Cal.App.2d 765); he vigorously defended civil rights; he recruited women and minorities for positions in the Department of Justice long before it was fashionable to do so; he protected Latino voting rights in the Imperial Valley; and he fought for California's water rights, including before the United States Supreme Court. (See, e.g., *Arizona v. California* (1963) 373 U.S. 546, decree (1964) 376 U.S. 340.) He argued, "Are we going to give Colorado River water to the people of California to drink or to Arizona for asparagus?" The court preferred asparagus.

Stanley Mosk won respect and support from law enforcement by his record as a prosecutor and for his work on behalf of legislation supportive of law enforcement. A United States Senator said of Attorney General Mosk that "he has been one of the most effective leaders in the effort to give law enforcement the status and accord which it so richly deserves." (Remarks of Sen. Thomas Dodd, 110 Cong. Rec. 22,079 (1964).) Another United States Senator, Sam Ervin, referred to Stanley Mosk as "one of the finest constitutional lawyers in the United States." (Remarks of Sen. Sam Ervin, 110 Cong. Rec. 18,115 (1964).)

Stanley Mosk is very proud of his forcing the Professional Golfers' Association to eliminate its "Caucasian only" clause so that Black golfers, such as Charles Sifford and William Spiller, could compete. Recently, these events have been recounted as the great golfer Tiger Woods has excelled. (See Arkush, *Setting a Course for Equality*, Golf World (Nov. 19, 1999) p. 32.)

Stanley Mosk is also proud of the accomplishments of his deputies, including the present Chief Justice of California and many other judges, officials and leaders in the bar throughout California.

In describing the membership of the John Birch Society in a report to the Governor published in the New York Times (August 3, 1961, at page 3, column 2), Stanley Mosk originated the expression "little old ladies in tennis shoes," an appellation that has become a part of the American lexicon. (For a description of Stanley Mosk's early career, see R. Mosk, *Early Visions of Justice* (1985) 12 *Hast. Const. L.Q.* 383; Bell, *Stanley Mosk: The Politician Who Dares* (Oct. 1964) Pageant 86 .

Stanley Mosk was the sole Democratic National Committeeman from California and was an early and active supporter of presidential candidate Senator John F. Kennedy. He worked closely and well with President Kennedy and Attorney General Robert Kennedy and was offered positions in the Kennedy administration. He was President Kennedy's choice to be a United States Senator from California in connection with the 1964 election. After President Kennedy was assassinated, Stanley Mosk rejected the opportunity to become a United States Senator (he was far ahead in public opinion polls) and was appointed by Governor Brown to the California Supreme Court.

Stanley Mosk's appointment took place when I was a clerk for the great Justice Mathew Tobriner. So I had the opportunity to work on the court when Stanley Mosk was a justice.

Others can discuss his judicial career. I must point out, however, that recently it was written, "Traynor; Tobriner; Cardozo; Fuld; Holmes; Shaw; Cooley; and Vanderbilt. The pantheon of state court judges certainly includes them. And just as certainly, no one currently sitting on one of America's state benches is more deserving and more likely to be named alongside them than Stanley Mosk. An institution, an icon, a trailblazer, a legal scholar, a constitutional guardian, a veritable living legend of the American judiciary, Justice Mosk has courageously and wisely labored for more than three decades as one of the most influential members in the history of one of the most influential tribunals in the western world." (62 *Alb. L.Rev.* 1213 (1999).) In an editorial concerning this record of longevity on this court, the Los Angeles Times editorialized about Stanley Mosk, "Californians are fortunate that this strong defender of civil rights,

civil liberties and press freedom has proved to have such staying power." (*Justice Mosk: 35 and Counting*, Los Angeles Times (Dec. 28, 1999) p. B8.)

Stanley Mosk has been subject to election or on the ballot about nine times. He has always been aware of his obligations to the people of California who have placed confidence in him. I believe the people's expectations have been met.

The family of Justice Mosk—his wife Kaygey; I, his son; Sandra Mosk, his daughter-in-law; Matthew Mosk and Julie Mosk Morris, his grandchildren; Julie's husband Daniel Morris; and Noah Morris and Jenna Morris, his two great-grandchildren—are all proud of him and the milestone he has reached. We appreciate what this court has meant to Stanley Mosk and the kind considerations it has extended to us in connection with this ceremony.

CHIEF JUSTICE RONALD M. GEORGE: Thank you very much, Mr. Mosk. And now, I would like to introduce Peter Belton, senior attorney in Justice Mosk's chambers. I should note that Peter has worked with Justice Mosk throughout Justice Mosk's lengthy service on the bench—and in fact preceded him at the court by several years. The combined knowledge, experience, and institutional memory that these two individuals have contributed to the court is truly awe-inspiring.

MR. PETER BELTON: May it please the court. Thank you, Chief Justice George, for your generous introduction, and for inviting me to address the court again. In doing so, I speak not just for myself, but for Justice Mosk's whole staff—and for his many former staff attorneys and externs, some of whom were able to join us today.

Richard has given us a lively overview of his father's career; my task is to focus on his record-setting tenure as a justice of this court. What a grand topic! There is so much I could tell you—I have many fond memories of my 35 years of working for Justice Mosk. But fear not: the Chief Justice has wisely limited our time today, so I'll touch only on the high points. As Henry VIII might have said to each of his wives, I shall not keep you long.

I draw my inspiration from America's national pastime: baseball. Why baseball? For three reasons. First, by breaking the longevity record Justice Mosk has earned a new title: as many have noted, he is now officially the Cal Ripken of the California Supreme Court. We have our own record-setter! And Justice Mosk

reminds me of Cal Ripken in yet another way: like Ripken, Justice Mosk is a modest, unassuming, hard-working gentleman, dedicated to doing his job—and probably wondering what all this fuss is about.

Secondly, Justice Mosk has always been a baseball fan. As proof, I cite the fact that at 5:04 p.m. on October 17, 1989, when the Loma Prieta earthquake struck, Justice Mosk was sitting in the stands at Candlestick Park waiting for the third game of the 1989 World Series to begin, and he was disappointed when the game was called for such a minor inconvenience as 7.1 on the Richter scale. I will also divulge what many of you may not know—that some years earlier Justice Mosk thought seriously about applying for the job of commissioner of baseball; unfortunately for baseball but fortunately for us, he resisted the temptation. There was precedent, of course, in the commanding figure of Judge Kenesaw Mountain Landis. After 17 years as a federal district judge, Landis served for 23 years as commissioner of baseball, ruling the game with an iron hand. Justice Mosk would have been much kinder and gentler, but he too would have made a great commissioner.

Thirdly—and this brings me to what I hope is a smooth segue into my real topic—baseball is a game of statistics: there is a statistic for everything that happens in the game. In fact, baseball can be seen as just one huge statistical database.

Justice Mosk's statistics are certainly impressive. The previous record holder, Justice John Shenk, served on the court from April 10, 1924, to August 3, 1959, for a total of 12,898 days. Justice Mosk joined the court on September 1, 1964, and by the day after Christmas 1999 he had served 12,899 days, breaking the Shenk record. For these precise figures I am indebted to the research of our staff attorney Ted Stroll.

Since the day after Christmas, of course, Justice Mosk has set a new record every day; as of today, for example, he has served 12,911 days. And he continues to do so: in three months he'll break 13,000. Justice Shenk's record stood for four decades, but I believe that Justice Mosk's record—whatever it turns out to be—will stand for much longer. Careers of 30 to 40 years on the court are becoming rare: for example, the last four justices to retire from the court served an average of only 43 months each. For that reason I daresay Justice Mosk's record will never be broken—although I'm sure he invites his present and future colleagues to give it their best shot.

How do we measure 12,899 days of service? By the calendar, that is 35 years, 4 months, and a few days. During that period we have had no less than seven United States Presidents and six California Governors. Justice Mosk joined the court less than a year after President Kennedy was assassinated, on a day when President Clinton was still a teenager growing up in Arkansas. Technologically speaking, it was the Dark Ages: in those days the court had no personal computers, no photocopiers, no fax machines, no cell phones, no pagers, no voice mail, and no Internet service. I note, however, that Justice Mosk managed to do his work—and do it well—without the help of those modern wonders.

Another way of measuring the length of Justice Mosk's service is to realize that he has now shared the bench with a total of 30 other justices of this court, including six Chief Justices. But we have had only 110 justices in our history. This means that Justice Mosk has served with more than one-quarter of the justices who have ever sat on this court. And the figure is all the more impressive when we remember that in the court's early period many justices served only a few years each. In fact, Justice Mosk alone has served longer than the terms of the first dozen justices put together.

But Justice Mosk has not just kept the seat warm, he has been extraordinarily productive in his 35-plus years. I am indebted to the research of Ed Jessen, our Reporter of Decisions, for the following figures: as of this morning, Justice Mosk has authored no less than 710 majority opinions and 776 minority opinions, for a grand total of 1,486 opinions of this court. A precise division of his minority opinions into concurrences and dissents is difficult, because some are both; but a fair reading indicates they are composed of 285 concurring opinions and 491 dissents. The library shelves groan under the weight of his work product: opinions by Justice Mosk appear in each of the last 85 volumes of the California Official Reports.

Justice Mosk's grand total of 1,486 opinions very likely gives him a second record as well: the most productive justice in the history of the court. His output easily exceeds the opinion total of each of the second- and third-longest serving members of the court, Justice Shenk and Chief Justice Traynor. Not only that, but at an age when he would have been forgiven for slowing down a little, his productivity continues unabated: for example, in the most recent five-year reporting period—from 1994 to 1999—Justice Mosk authored over a hundred more majority opinions and over 200 more minority opinions. Finally, and perhaps the most startling figure of all, Justice Mosk's current total of 1,486 opinions

works out to an average of one opinion filed every eight days of the last three and a half decades.

I will spare you any more statistics—even baseball fans can have too much of a good thing. But Justice Mosk’s record on the court is not only rich in quantity, it is rich in quality. Many of his majority opinions—and not a few of his dissents—have made lasting contributions to the law of California and to the quality of life of its citizens. Some have had a potent effect on the development of the law in other states and in the federal courts. Although he has written on every topic to come before the court during his tenure—including taxation, insurance law, contracts, and property law—Justice Mosk is perhaps best known for his landmark opinions in the fields of civil rights and liberties, free speech and free press, equal protection, privacy, state constitutionalism, environmental law, employee rights, and consumer protection. With over 1400 opinions to choose from I can cite only a few, but I believe they represent a fair cross-section of the issues he loves to grapple with, and the just and workable solutions he tries to reach. I will call the roll in alphabetical order:

Associated Home Builders v. City of Walnut Creek (1971) 4 Cal.3d 633, holding constitutional a requirement that developers of private land dedicate open space to public use.

Bakke v. Regents of University of California (1976) 18 Cal.3d 34, holding unconstitutional an admissions program to a public university based on racial quotas.

Burrows v. Superior Court (1974) 13 Cal.3d 238, holding that bank depositors have a constitutionally protected expectation of privacy in their bank statements.

City of Berkeley v. Superior Court (1980) 26 Cal.3d 515, settling the rule that private owners of tidelands hold them subject to a trust for public access and use.

Cobbs v. Grant (1972) 8 Cal.3d 229, adopting the doctrine of informed consent, which requires doctors to disclose to their patients the treatments available and the risks inherent in each.

Friends of Mammoth v. Board of Supervisors (1972) 8 Cal.3d 247, holding that developers of private building projects needing a governmental license or public funds must comply with the California Environmental Quality Act.

Henning v. Industrial Welfare Commission (1988) 46 Cal.3d 1262, striking down a two-tier minimum wage system that authorized a lower minimum wage for employees who work for tips.

In re Lynch (1972) 8 Cal.3d 410, holding that the penalty for a crime can be so disproportionate to the offense that it violates the cruel or unusual punishments clause.

In re Marriage of Carney (1979) 24 Cal.3d 725, holding that disabled persons cannot be deprived of the custody of their children on the basis of stereotypes about their fitness as parents.

Miller v. Superior Court (1999) 21 Cal.4th 883, holding that journalists cannot be jailed for contempt of court for refusing to give prosecutors unpublished material.

Molko v. Holy Spirit Association (1988) 46 Cal.3d 1092, holding that former Moonies have the right to bring an action against the Unification Church for fraud and intentional infliction of emotional distress.

Parr v. Municipal Court (1971) 3 Cal.3d 861, holding that a “Keep Off the Grass” ordinance designed to discriminate against hippies violates the equal protection clause.

People v. Shirley (1982) 31 Cal.3d 18, holding that police hypnosis of prospective witnesses for the purpose of enhancing their memory contaminates the witnesses and makes their testimony inadmissible.

People v. Wheeler (1978) 22 Cal.3d 258, holding it unconstitutional for the prosecution to use racially based peremptory challenges against the prospective jurors in a criminal trial.

Rodriguez v. Bethlehem Steel Corp. (1974) 12 Cal.3d 382, holding that the spouse of an injured worker has the right to bring an action for loss of consortium.

Schweiger v. Superior Court (1970) 3 Cal.3d 507, holding that tenants may defend against unlawful detainer actions on the ground they were evicted in retaliation for exercising their statutory right to ask for repairs.

Scott v. Pacific Gas & Electric Co. (1995) 11 Cal.4th 454, recognizing for the first time an employee's cause of action for wrongful demotion.

Sindell v. Abbott Laboratories (1980) 26 Cal.3d 588, holding that a person unable to identify the particular manufacturer of the drug that injured him or her may jointly sue all the manufacturers of that drug on the theory of enterprise liability.

Vasquez v. Superior Court (1971) 4 Cal.3d 800, extending the important remedy of class actions to the field of consumer fraud.

And finally, *Wirta v. Alameda-Contra Costa Transit District* (1967) 68 Cal.2d 51, holding it a violation of free speech for a public bus company to refuse to sell advertising space in its coaches for an anti-Vietnam War message while selling it for commercial advertising.

Thank you for your patience. These cases amount to less than 2 percent of Justice Mosk's entire output to date, but they illustrate his lifelong commitment to the rule of law and a free and fair society. We should not be surprised that he has always given pride of place in his chambers to a bust of Thomas Jefferson. As the Los Angeles Times said in a recent editorial praising Justice Mosk, "Californians are fortunate that this strong defender of civil rights, civil liberties and press freedom has proved to have such staying power."

In September 1964 there were four giants on the California Supreme Court. By 1982, three had gone—Chief Justice Traynor, Justice Tobriner, and Justice Peters. The fourth—Justice Mosk—is with us still. And for that, we are all grateful.

CHIEF JUSTICE RONALD M. GEORGE: Thank you very much, Mr. Belton. And now I would like to introduce Seth Hufstедler, an eminent attorney in Los Angeles, former president of the State Bar of California, and longtime friend of Justice Mosk.

MR. SETH HUFSTEDLER: Thank you Mr. Chief Justice.

I enjoyed very much listening to Richard and to Peter; they gave us a great deal of information, much of which is not readily available at all, and it comes from their recollection or their research. But it gives us a very good idea of two things, I think. Richard showed us in just a few stories, in a few short strokes, that Stanley Mosk is a very decent human being, with very good values, which we can all approve, and it is not the sort of thing that we would know a lot about in the details, unless Richard had told us about it.

It also indicates something that I think is very satisfying in Justice Mosk's life, and that is to have such a fine relationship with an adult son. Most of us have adult sons and we know what it is like to raise a son and to enjoy their company. And for those of us who have that good relationship, and I consider myself in that group—my son and I have walked 5,000 miles together in the countryside here and there—it is a wonderful experience, and it is very heartening and supportive and accomplishes a great deal.

My wife, Shirley, and I were talking about Stanley Mosk a few days ago and she reminded me of Ogden Nash's famous couplet which we've all had a chance to use from time to time. You will remember, "I just dropped in for two short beers, and there went 37 years." Now you'll say right away, well we are talking about 35 years, not 37. But Ogden Nash was a man who, if he had anything on his mind, it was meter and he certainly couldn't use 35 years because he needed two syllables instead of one. And so with a little poetic license seven was the first number after five that had two syllables. So he used 37 years. Besides, Stanley will make 37 years in a mere blink of an eye and we will be there before you know it.

Looking back, I am sure Justice Mosk cannot now believe that it has really been 35 years since he first came on this court, until you stop and think about who was there then, and what they have done since, and where have they all gone. We all have a way of telescoping the time that has passed. We can't believe that that much time has gone by, and in his case that a great deal of time has gone by, and he is still here in good fiddle, good mind, and able to do things that people much younger than he still cannot do.

But of course, this court has lived through a great deal of drama, excitement, some trauma, some pain, much glory, so it may seem longer in some respects to the people who have gone through it.

Stanley already had a full career before his appointment to the Supreme Court. His time in the Governor's office, his time as the youngest superior court judge in the state, and then as the Attorney General. He was a superior court judge too long to be the youngest superior court judge all that time because, though it is hard to believe, he actually served 16 years on the superior court. And if you add that to 35 years on this court, it seems to me you come out with something like 51 years of service to the courts and the people of California. It is probably another record, but we haven't researched that one to find out about it.

As it has been pointed out, he came onto this court on September 1, 1964. It does sound like, and indeed it is, a long time ago. And he came on at a dramatic time. Chief Justice Phil Gibson retired the day before, August 31. The next day, September 1, Justice Roger Traynor was sworn in as Chief Justice and Stanley was sworn as associate justice to fill that vacancy. He certainly proved over the last 35 years that he is entirely a worthy successor to fill the vacancy that was left by the great Roger Traynor. And incidentally, just to fill in the history a bit, he had resigned as Attorney General, just before he came on the court. And Thomas Lynch was appointed the new Attorney General, the day before, August 31, 1964. So Lynch became the new Attorney General. Just after Justice Mosk was sworn in, Justice Schauer retired, only two weeks later. And Justice Peek stepped down less than three months later. So in effect, Justice Mosk started out with a new Chief Justice, two other new associate justices, to whom he was senior by a matter of days, and a new Attorney General. A dramatic change in the court in just a very short time.

The court then in order of seniority was Chief Justice Roger Traynor, Marshall McComb, Ray Peters, Mathew Tobriner, Stanley Mosk, Louis Burke, and Ray Sullivan. With these changes, the court became that very strong and widely admired court that we have all been proud of and are still proud of for so long.

If you stop a moment and listen to that, we had some mention of four great strengths, but I would find six great strengths on that court. Roger Traynor, Ray Peters, you just don't find a finer judge than Ray Peters. Matthew Tobriner, Stanley Mosk, we know about him, Louie Burke, and Ray Sullivan. Ray Sullivan was a mainstay of this court for a long time and he had such wonderful scholarship and such a great way of defining issues and dealing with them. But Stanley Mosk has been a key figure on that strong court ever since.

His relationship with all the other judges was almost always excellent. There was always a glitch or two here or there that needed to be worked out, depending on the various people. But generally speaking, they worked very well together. And they did indeed reorganize the law of many different fields—not only in California, but adopted across the country—because of their great strength and their brilliance in putting together the issues and resolving them. And they represented big steps forward in those fields that they dealt with, consumer rights, minority problems, civil liberties. They were remarkably good in those areas.

However, simply being on the court for 35 years, I am sure, is not basically what Stanley Mosk would like to be remembered for. Certainly, it is a great accomplishment because he has been able to do it brilliantly.

But as the Los Angeles Times put it the other day, and I thought they put it very well, “one legal scholar recently noted with a modicum of hyperbole, ‘Mosk has been . . . one the most influential members in the history of one of the most influential tribunals in the Western world.’” (*Justice Mosk: 35 and Counting*, Los Angeles Times (Dec. 24, 1999) p. A12.) Now, there may be a smidgen of hyperbole in some of that. Lawyers are entitled to use hyperbole all the time; there’s nothing wrong with that. But we know that there is a basic truth throughout that statement. And even with a little hyperbole that is a pretty fine tribute to anybody. One of the most influential members of one of the most influential tribunals. True, and here is the man to prove it.

Well, personnel of courts do change. Fortunately, our court has remained up there as that great court. But the last of those six other original justices left the court on January 3, 1982. That is when Justice Tobriner left, and the reason it was that long was only because Justice Tobriner stayed there for a long time, 17 years after Justice Mosk came on the court. Otherwise, it would have been much shorter, but even with that 17 years, please note that before Justice Mosk had served half his present 35 years, he was the only member of that original court that was still on. And of course, he became the senior associate justice at that point.

Now, he must be getting a little used to that chair that he has been sitting in. Because he has been sitting in that same chair for at least 18 years, and there will be, how many more, years sitting there in that chair. I think Peter pointed out some of these numbers, most of which I will not repeat for you. But he has served on this court with five chief justices, and he missed Phil Gibson by only one day, stepping down the day before Roger Traynor came in. Now, I made the same quick review that Peter apparently did and I would be willing to stipulate that his

research is so much better than mine that he is undoubtedly right. But I made a list of 31 other justices on the Supreme Court that Stanley Mosk has served with. Thirty-one other justices. It illustrates very well Peter's point that in 35 years, 31 justices had been on that court. About once a year, somebody steps down and somebody else comes on—not quite, 31 in 35 years. So if we took those 31 justices, six at a time with Stanley Mosk, we could have, what, five full courts, completely different judges except for Stanley Mosk, for that 35 years, and he would have sat with all those people, deciding these important cases that have been so important throughout the country.

Well, as the Los Angeles Times pointed out he is has been an intellectual leader and in fact a leader in many categories. Most court watchers believe, and I am quoting various records, that in those 35 years, there were a number of times when he should have been nominated as chief justice. Not recently, you understand, Mr. Chief Justice, but in the past. And there were times in the past. But, I am sure that most the people sitting here in the courtroom can name almost a particular day and occasion when it was fairly clear that Stanley Mosk was going to be the next Chief Justice and the Governor flipped and it didn't happen. And the world would have been a different and probably a better place had the Governor gone along with his original views.

I would like to comment on one of Justice Mosk's group of talents. He brings a great deal of talent to this court. But the one thing that he has been able to do, and he still does on a regular basis, is to stay right on top of his workload. He has that great ability to take a case, analyze it quickly, come up with documentation, good reasoning, and a well-drafted opinion in a very short time. He shared that ability with Justice William Douglas—regardless of what side of the issue William Douglas came down, he could take a case, he knew where he was going and he came out with an answer. And Stanley Mosk does that time after time, and that is one reason why he is so effective and efficient in handling his chambers, is because he is able to come up with those answers promptly. Now he will modestly tell you, particularly with Peter sitting here, that he has a great staff to help him. And indeed he does. But no one doubts that the opinions and the dissents which issue from his chambers, are his opinions and dissents. And that the key language is his.

On one other point, he has always been known for his forceful and often colorful writing. As Richard mentioned, he created the line "little old ladies in tennis shoes," but he almost never gets any credit for it. I never see anybody attributing that line. And when he was talking about little old ladies in tennis

shoes, he was talking about tennis shoes, cloth shoes, he wasn't talking about Nikes or Reeboks in those days. And everybody didn't wear tennis shoes then. It was just these little old ladies in Pasadena and they certainly illustrated this point exactly. And so far as his colorful language is concerned, it hasn't always been benign. Shirley's good friend and mine, and our partner from the time of his retirement from this court until his death, was Otto Kaus. Otto was a wonderful guy, you all know that. Otto and Stanley enjoyed each other's company a great deal. Largely because they were both exceedingly learned in the law and fascinated with and enjoyed talking about it. I have been amazed time and again to be with them and to hear them take on a subject and talk about it, purely from memory—but knowing the eight or ten key cases and how they developed the law, and how it came out where it was, and they have that all in their minds to start with when they deal with the problem again.

But Otto and Stanley often disagreed on cases. And one or the other would dissent, and one or the other would often write the opinion. And Stanley's well-crafted use of the English language can contain many a barb, subtle or not so subtle for those who disagree with him. Otto always enjoyed the criticisms that he got in written opinions and dissents from Stanley, and they talked about it and laughed about it and Otto collected them. And he still has in his papers a little book of these things that Stanley said about his opinions that were not flattering. But Otto, I think got more laughs out of it than Stanley did, although I am sure Stanley chortled quite a bit in his chambers as he inserted one of these little zingers. But just the same that never, ever interfered with their good relationship, and Stanley was one of the most effective and sincere speakers at the memorial service for Otto Kaus.

Well, as many of the things that I would have commented on have already been covered, and better than I would have covered, by our two prior speakers, I think perhaps I should close. I think that we could all agree that it's been a good 35 years, and it's been a good 35 years to be a highly influential member on a highly influential court. That's already been more than a full and effective lifetime of service. But Stanley's service to the public is still going on, and there's still much more to come. So, Stanley, we toast, we toast a big toast, for your first 35 years on the Supreme Court, and we are still counting.

CHIEF JUSTICE RONALD M. GEORGE: Thank you very much, Mr. Hufstедler. I now would like to invite Justice Mosk to respond, if he wishes to do so.

ASSOCIATE JUSTICE STANLEY MOSK: Just a brief word of appreciation for the flattering remarks we heard this morning.

It is most gratifying to serve on this court under the splendid leadership of Chief Justice Ronald George. No one, at least in modern times, has done more for judicial administration than our current Chief Justice, and in a relatively short time. It is a joy to work with him and under his direction on the court.

My thanks for those kind words from Seth Hufstedler, a great lawyer whom I have long admired.

Perhaps many of you do not know that, in addition to being my son, in addition to having an active law practice, Richard Mosk is a distinguished judge on an outstanding international tribunal. Appointed by President Reagan and retained by succeeding presidents, he and his two American colleagues solve complicated Iranian issues. Thanks, Richard, for those comments about my work on this court. I am proud of you.

I cannot tell you how grateful I am to Peter Belton, who has been with me ever since I have been on this court. His advice, his analysis of issues, his drafting of proposed memoranda, his helpful consideration of issues on which I must act, have been of monumental service to me and to the judiciary. His kind words today are particularly meaningful to me. Thank you, Peter Belton.

I cannot conclude without applauding other members of my staff. Dennis Maio, Rob Katz, Judy Schelly, Ted Stroll, and our outstanding secretary, Pat Sheehan, all have been consistently industrious, productive and constructive judicial servants. I am indebted to them for their remarkable service to me, to the court, and to the judicial process.

Before I conclude, may I take the liberty of noting the presence of my wife, Kaygey. She is my helpmate, my companion, my advisor, my lover, and the one person who is indispensable to my well-being. Thanks for being here, Kaygey.

Finally, thanks to my colleagues on the court. There is a collegiality on this court that ends up serving well the cause of justice and the people of California. It is a pleasure to work with all my colleagues on this court, and I certainly thank them for enduring this session this morning. Thank you very much for being here.

CHIEF JUSTICE RONALD M. GEORGE: On behalf of the entire court, I want to express again our great appreciation to all those who contributed their memorable remarks to this morning's special celebration.

It is ordered that the proceedings at this special session be spread in full upon the minutes of the Supreme Court and published in the Official Reports of the opinions of this court, and that a copy of these proceedings be provided to Justice Mosk.

S077861 Wendy Fox et al., Appellants
v.
Richard J. Kramer et al., Respondents
Cause called. John M. Ross argued for Appellants.
Terry Anastassiou opened argument for Respondents.
David Ettinger, appearing for Amicus Curiae California Medical Association, continued argument for Respondents.
Mr. Ross replied.
Cause submitted.

S068742 Francisco Paz, Appellant
v.
State of California et al., Respondents
Cause called. Brian K. Stewart argued for Respondent Katz, Okitsu & Association.
James S. Link opened argument for Respondents for Stoneman and Temple.
Fred J. Hiestand, appearing for Amicus Curiae for Association for California Tort Reform continued argument for Respondents Stoneman and Temple.
Albert F. Coombes argued for Appellant.
Mr. Stewart replied.
Cause submitted.

Court recessed until 1:30 p.m. this date.

Court reconvened pursuant to recess.
Members of the Court and Officers present as first shown.

- S074951 The People, Respondent
 v.
 Aldo Hernandez, Appellant
 Cause called. Corinne S. Shulman argued for Appellant.
 Chung L. Mar, Deputy Attorney General, argued for Respondent.
 Ms. Shulman replied.
 Cause submitted.
- S073196 Robert Scheiding et al., Appellants
 v.
 General Motors Corporation, Respondent
 Cause called. Gregory R. Ellis argued for Appellants.
 David Heilbron argued for Respondents.
 Mr. Ellis replied.
 Cause submitted.
- S025880 The People, Respondent
 v.
 Richard Louis Arnold Phillips, Appellant
 Cause called. Donald J. Horvath argued for Appellant.
 R. Todd Marshall, Deputy Attorney General, argued for
Respondent.
 Mr. Horvath replied.
 Cause submitted.

Court adjourned.

Orders were filed in the following matters extending the time within which to grant or deny a petition for review to and including the date indicated, or until review is either granted or denied:

A079367/S083523 Timothy P. Hill v. Sutter/CHS et al. – February 7, 2000.

A079863/S083466 Marilyn Merrill et al. v. Navegar Incorporated - February 4, 2000.

A081141/
A084188/S083449 Douglas William Hysell on Habeas Corpus;
People v. Douglas William Hysell – February 4, 2000.

B119924/S083464 Allen Gutierrez v. Southern California Edison Company –
February 6, 2000.

B120082/S083517 James V. Anders v. Mercedes-Benz of North America
Incorporated et al. – February 8, 2000.

B125030/S083434 Baker & Burton v. Jeffrey A. Ostriker – February 4, 2000.

B131431/S083458 ICF Kaiser Engineers, Inc. v. Los Angeles County Superior
Court; Sepulveda Hatteras, Ltd. et al., RPIs – February 4,
2000.

B135966/S083572 Covenant Care Incorporated et al. v. Los Angeles County
Superior Court; Lourdes M. Inclan et al., RPIs – February 7,
2000.

B136008/S083468 GCI Properties Incorporated et al. v. Los Angeles County
Superior Court; Lourdes Inclan, RPI – February 4, 2000.

B136288/S083475 Farmers Insurance Exchange v. Los Angeles County
Superior Court; Alfredo Rosas-Davis, RPI – February 7,
2000.

D029614/S083479 People v. Hensel Omar Pena – February 4, 2000.

E022067/S083485 People v. Robert Evan Keck – February 8, 2000.

E022253/S083578 People v. Joseph Emilio Hernandez – February 10, 2000.

E022327/S083315 People v. Sergio Ignacio Iribe – February 4, 2000.

E022567/S083573 People v. Jaime Cerna – February 7, 2000.

- E025759/S083518 In re Daniel Bryant Rees on Habeas Corpus – February 8, 2000.
- G020385/
G023957/S083574 In re Lisa Yi Yun Peng on Habeas Corpus;
People v. Lisa Yi Yun Peng – February 7, 2000.
- G020702/S083477 Larry Charpentier v. Los Angeles Rams Football Company –
February 7, 2000.
- G023005/S083522 People v. Jaime E. Beltran – February 8, 2000.
- F023925/S083502 Denard M. Fobbs v. Holy Cross Health System Incorporated
- February 4, 2000.
- F028271/S083536 Michael Koenig v. World Savings and Loan Association –
February 8, 2000.
- F029370/S083498 People v. Nephtali Mora – February 7, 2000.

S022153 In re James Edward Hardy
on
Habeas Corpus

On application of the parties and good cause appearing, it is ordered that the time to serve and file exceptions to report of the referee and simultaneous briefs on the merits is extended to and including February 18, 2000. Any response shall be served and filed 30 days thereafter.

No further extensions of time are contemplated.

S026700 People, Respondent
v.

Andrew Lamont Brown, Appellant

Appellant's application for relief from default to file appellant's opening brief is granted.

S080451 People, Respondent

v.

Juancho Lopez Rells, Appellant

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's answer brief on the merits is extended to and including January 18, 2000.

S081186 Tyrone Franklin Swain et al., Petitioners

v.

Los Angeles County Superior Court, Respondent

People, Real Party in Interest

On application of petitioner Tyrone Franklin Swain and good cause appearing, it is ordered that the time to serve and file petitioner's answer brief on the merits is extended to and including January 19, 2000.

S081900 Golden Gateway Center, Appellant

v.

Golden Gateway Tenants Association, Respondent

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's opening brief on the merits is extended to and including February 22, 2000.

S082782 The Hartwell Corporation et al., Petitioners

v.

Ventura County Superior Court, Respondent

Kristin Santamaria et al., Real Parties in Interest

On application of petitioners Covina Irrigating Company and California Domestic Water Company and good cause appearing, it is ordered that the time to serve and file opening brief on the merits is extended to and including February 18, 2000.

S082782 The Hartwell Corporation et al., Petitioners

v.

Ventura County Superior Court, Respondent

Kristin Santamaria et al., Real Parties in Interest

On application of petitioner Oil & Solvent Process Company, and good cause appearing, it is ordered that the time to serve and file petitioner's opening brief on the merits is extended to and including February 18, 2000.

- S082782 The Hartwell Corporation et al., Petitioners
 v.
 Ventura County Superior Court, Respondent
 Kristin Santamaria et al., Real Parties in Interest
 On application of petitioners Wynn Oil Co. et al., and good cause
 appearing, it is ordered that the time to serve and file petitioners'
 opening brief on the merits is extended to and including February 18,
 2000.
- S075342 In re Lucero L., a Person Coming Under the Juvenile Court Law

 San Diego County Health and Human Services Agency, Respondent
 v.
 Otilio L. et al., Appellants
 The request of minor, Lucero L., to join in respondent San Diego
 County Health and Human Services Bureau's "Answer Brief on the
 Merits" and Amicus Curiae Los Angeles County's "Brief of Amicus
 Curiae in support of respondent" is hereby GRANTED.
- S084859 Jack Daniel, Petitioner
 v.
 Alameda County Superior Court, Respondent
 People, Real Party in Interest
 The above entitled matter is transferred to the Court of Appeal,
 First Appellate District.
- S084868 Matilda Mabe, Petitioner
 v.
 Kirstin Caldwell et al., Respondents
 The above entitled matter is transferred to the Court of Appeal,
 Fourth Appellate District, Division Two.

S073756 In re the Attorney Discipline System

On December 3, 1998, the court adopted rule 963 of the California Rules of Court, which imposed an interim special regulatory fee on attorneys to fund the State Bar's attorney discipline system. On the same date, the court appointed retired Justice Elwood Lui to serve in the above entitled matter as special master to supervise the collection, disbursement, and allocation of fees collected pursuant to rule 963 of the California Rules of Court. Justice Lui was directed to provide regular reports to the court on collection and disbursements and authorized to request further guidance from or to make recommendations to the court as he considered appropriate.

During the first year of the current legislative session, a bill was enacted, effective January 1, 2000, setting the amount of dues to be paid by attorneys to the State Bar in 2000. Justice Lui has informed the court that funds remain in the account containing the fees collected and segregated pursuant to rule 963, and that he continues to work on an ongoing and cooperative basis with the State Bar to restore and, as appropriate, restructure the attorney discipline system. Several tasks, including the installation and implementation of improved technological tools, and analyzing the results of various interim changes designed to improve the system's functioning, will not be completed for several months. The State Bar has expressed to the court its deep appreciation for Justice Lui's guidance and assistance and its support for the continuation of his service.

The funding provided by the recently-enacted legislation should permit the State Bar to increase all facets of its operations, including continuing to restore the attorney discipline system. Accordingly, in order to ensure that the funds remaining from the assessment provided in Rule 963 continue to be utilized in accordance with the purposes for which they were collected, and that the uses to which they are put are most effectively integrated into the operations made possible by the restored funding provided by the Legislature and the Governor, the court hereby orders:

- 1) Any remaining fees collected pursuant to rule 963 shall continue to be segregated from all other fees and revenue collected by the State Bar, and deposited and maintained in a separate account as determined by the special master;

- 2) The appointment of retired Justice Elwood Lui as special master, including his charge to supervise and oversee the collection,

disbursement, and allocation of fees mandated by rule 963, is hereby extended in order to ensure that the funds collected are used exclusively for the purpose of maintaining and operating the attorney discipline system;

3) The special master shall report to the court regularly on his progress and on the disbursements made pursuant to rule 963, and these reports shall be at such intervals as the special master determines to be appropriate or as the court otherwise specifies;

4) The special master shall be paid the fees and expenses incurred in performing the duties described herein only upon the prior order of this court.

